

AMENDED IN SENATE APRIL 26, 2005

AMENDED IN SENATE APRIL 12, 2005

**SENATE BILL**

**No. 326**

**Introduced by Senator Dunn**

(Principal coauthor: Assembly Member Arambula)

(Coauthor: Assembly Member Torrico)

February 16, 2005

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An act to amend Section 65589.4 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as amended, Dunn. Land use: housing elements.

Existing law requires a multifamily residential housing project to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions. Among those conditions are that the project is subject to a discretionary decision, other than a conditional use permit, and a negative or mitigated negative declaration has been adopted for the project under the California Environmental Quality Act (CEQA). Existing law permits the negative or mitigated negative declaration to be adopted only after a public hearing to receive comments on that declaration if a public hearing is not held with respect to the discretionary decision.

This bill would ~~delete "multifamily" and instead provide that revise these provisions to apply only to~~ an attached housing development, as defined, ~~that is proposed to be placed on a parcel zoned for multifamily or single-family use is not subject to a conditional use permit~~ on any parcel zoned for *attached* housing ~~if the existing~~

~~percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the housing development meets specified conditions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65589.4 of the Government Code is  
2 amended to read:

3 65589.4. (a) An attached housing development shall be a  
4 permitted use not subject to a conditional use permit on any  
5 parcel zoned for *attached* housing if it satisfies the requirements  
6 of subdivision (b) and either of the following:

7 (1) The housing development satisfies the criteria of Section  
8 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

9 (2) The housing development meets all of the following  
10 criteria:

11 (A) The housing development is subject to a discretionary  
12 decision other than a conditional use permit and a negative  
13 declaration or mitigated negative declaration has been adopted  
14 for the housing development under the California Environmental  
15 Quality Act (Division 13 (commencing with Section 21000) of  
16 the Public Resources Code). If no public hearing is held with  
17 respect to the discretionary decision, then the negative  
18 declaration or mitigated negative declaration for the housing  
19 development may be adopted only after a public hearing to  
20 receive comments on the negative declaration or mitigated  
21 negative declaration.

22 (B) The housing development is consistent with both the  
23 jurisdiction's zoning ordinance and general plan as it existed on  
24 the date the application was deemed complete, except that a  
25 housing development shall not be deemed to be inconsistent with  
26 the zoning designation for the site if that zoning designation is  
27 inconsistent with the general plan only because the housing  
28 development site has not been rezoned to conform with the most  
29 recent adopted general plan.

30 (C) The housing development is located in an area that is  
31 covered by one of the following documents that has been adopted

1 by the jurisdiction within five years of the date the application for  
2 the housing development was deemed complete:

3 (i) A general plan.  
4 (ii) A revision or update to the general plan that includes at  
5 least the land use and circulation elements.

6 (iii) An applicable community plan.

7 (iv) An applicable specific plan.

8 (D) The housing development consists of not more than 100  
9 residential units with a minimum density of not less than 12 units  
10 per acre.

11 (E) The housing development is located in an urbanized area  
12 as defined in Section 21071 of the Public Resources Code or  
13 within a census-defined place with population density of at least  
14 5,000 persons per square mile or, if the housing development  
15 consists of 50 or fewer units, within an incorporated city with a  
16 population density of at least 2,500 persons per square mile and a  
17 total population of at least 25,000 persons.

18 (F) The housing development is located on an infill site as  
19 defined in Section 21061.0.5 of the Public Resources Code.

20 (b) At least 10 percent of the units of the *attached* housing  
21 development shall be available at affordable housing cost to very  
22 low income households, as defined in Section 50105 of the  
23 Health and Safety Code, or at least 20 percent of the units of the  
24 housing development shall be available at affordable housing  
25 cost to lower income households, as defined in Section 50079.5  
26 of the Health and Safety Code, or at least 50 percent of the units  
27 of the housing development available at affordable housing cost  
28 to moderate-income households, consistent with Section 50052.5  
29 of the Health and Safety Code. The developer of the *attached*  
30 housing development shall provide sufficient legal commitments  
31 to the local agency to ensure the continued availability and use of  
32 the housing units for very low, low-, or moderate-income  
33 households for a period of at least 30 years.

34 (c) Nothing in this section shall prohibit a local agency from  
35 applying design and site review standards in existence on the  
36 date the application was deemed complete.

37 (d) The provisions of this section are independent of any  
38 obligation of a jurisdiction pursuant to subdivision (c) of Section  
39 65583 to identify multifamily sites developable by right.

1 (e) This section does not apply to the issuance of coastal  
2 development permits pursuant to the California Coastal Act  
3 (Division 20 (commencing with Section 30000) of the Public  
4 Resources Code).

5 (f) This section does not relieve a public agency from  
6 complying with the California Environmental Quality Act  
7 (Division 13 (commencing with Section 21000) of the Public  
8 Resources Code) or relieve an applicant or public agency from  
9 complying with the Subdivision Map Act (Division 2  
10 (commencing with Section 66473)).

11 (g) For purposes of this section, “attached housing  
12 development” means a structure containing two or more dwelling  
13 units.